UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

August 26, 1991

OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

Mr. William G. Nowman, President
Halissco, Inc.
6601 North Black Canyon Highway
Phoenix, Arizona 85015

Dear Mr. Nowman:

This responds to your August 21, 1991 letter to Administrator Reilly about your need for clarification of a portion of the Environmental protection Agency's (EPA) underground storage tank (UST) regulations that were promulgated under Subtitle I of the Resource Conservation and Recovery Act as amended. Your question pertains to the way the 40 CFR Part 280 regulations address vaulted tank systems buried in the ground.

Your letter suggests there is a lack of clarity in the UST regulations about how much space is necessary between the tank vessel and the surrounding open vault to allow for physical inspection. This question is important because tanks that can be physically inspected for leaks are considered to be the same as aboveground tanks, and thereby excluded from the UST rules under the "underground areas exclusion" provided in the statutory definition of underground storage tanks. Your general concern is that there are some vaulted tank systems for sale in the market that do not allow complete physical inspection of all sides of the tank vessel because the tank shell is located too close to the side walls of the vault.

In your letter you provided a specific example of a tank that is within six inches of the vault's walls on three sides, but is, set back far enough along the fourth side of the tank to allow room for human entry and inspection. Such a tank system would be considered to be physically inspectable by EPA, and therefore not subject to the Agency's UST regulations under the "underground areas exclusion", if the access provided on the fourth side of the vaulted is sufficient to enable a person to observe evidence of a leak from anywhere on the tank vessel. Thus, if the tank is in a saddle and the bottom of the vault can be viewed. in order to check for evidence of a leak then the tank is considered to be inspectable.

It is our belief that the underground areas exclusion in the statute was intended by Congress to exempt from the UST rules those tank systems that area: (1) out in the open and not surrounded by backfill (and therefore not subject to the primary failure mode of existing USTs: external corrosion); (2) not hidden from visual inspection for leaks (the same as above-ground tanks); and (3) built and installed according to the above-ground tank consensus codes of practice. Thus, meeting the physical

inspectability criterion that is discussed in the preamble to the rule. (45 FR 37121 September 23, 1989) is determined by whether inspector can access the tank system sufficiently to assure it is not supported by backfill, can be visually checked for evidence of leaks, and is built to an above-ground tank code. Such a tank system is not subject to EPA'S underground tank regulations.

I hope the above information provides the clarifications you seek. If you have further questions on this issue please contact me.

Sincerely,

/s/

David Ziegele, Acting Director
Office of Underground Storage Tanks

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